

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: MULTIPLAN HEALTH  
INSURANCE PROVIDER LITIGATION

This Document Relates To:

ALL ACTIONS

Case No. 1:24-cv-06795  
MDL No. 3121

Hon. Matthew F. Kennelly

**CLASS PLAINTIFFS' BRIEF ON THE PROPOSED CASE MANAGEMENT ORDER  
REGARDING DISCOVERY BELLWETHER DAP SELECTION AND CASES**

Class Plaintiffs take no position on the proposed DAP discovery schedule or the process by which some DAPs will proceed with discovery. Class Plaintiffs submit this statement only to explain why it is not appropriate to label those cases “bellwethers.” Class Plaintiffs suggested the more neutral term “Track One DAPs,” but DAPs rejected that proposal.

The “bellwether” label is inapt here. This is not a mass tort MDL, where class treatment is unavailable and thus bellwethers are used to generate information about a larger set of individual cases. In complex antitrust litigation involving price-fixing allegations, the central questions in dispute are whether the alleged cartel existed and, if so, its breadth, duration, and impact across the market. Given that these questions are typically resolved through common proof, courts in antitrust proceedings involving a proposed class have rejected so-called “bellwether” approaches as unnecessary and inefficient. *See, e.g., Castro v. Sanofi Pasteur Inc.*, 134 F. Supp. 3d 820, 849 (D.N.J. 2015) (noting, in antitrust action involving tens of thousands of pediatric medical providers, that “[t]he same common core of evidence clearly applies to all these cases” and that adopting a bellwether approach “would not promote judicial efficiency, resolution of issues, or administration of justice”); *In re High-Tech Emp. Antitrust Litig.*, 985 F. Supp. 2d 1167, 1228

(N.D. Cal. 2013) (noting bellwether trials “would merely multiply the number of trials with the same issues and evidence”).

The same is true here, with a proposed class action that, if certified, would resolve the claims of potentially hundreds of thousands of healthcare providers.<sup>1</sup> The Class Plaintiffs thus propose labeling the DAP actions that are not stayed as “Track One DAPs.” This accomplishes the parties’ needed demarcation while avoiding the confusion and inferences raised by the term “bellwethers.”

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<sup>1</sup> See, e.g., Definitive Healthcare, *Healthcare Insights* (“According to our database, there [are] more than 330,000 currently active physician group practices across the U.S. as of January 2025.”), <https://www.definitivehc.com/resources/healthcare-insights/number-physician-group-practices-by-state>.

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Respectfully submitted,

/s/ Zachary D. Caplan

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